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**SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1940**

**MORSE CROPLEY  
CLERK**

**No. 611**

**GENE BUCK, INDIVIDUALLY AND AS PRESIDENT OF THE  
AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS, ET AL.,**

*Appellants,*

*vs.*

**GEORGE COUPER GIBBS, INDIVIDUALLY AND AS ATTORNEY  
GENERAL OF THE STATE OF FLORIDA, ET AL.**

**APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR  
THE NORTHERN DISTRICT OF FLORIDA.**

**STATEMENT AS TO JURISDICTION.**

**FRANK J. WIDEMAN,  
LOUIS D. FROHLICH,  
HERMAN FINKELSTEIN,  
MANLEY P. CALDWELL,**

*Counsel for Appellants.*

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UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF FLORIDA, GAINESVILLE DIVISION

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**Equity No. 12**

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GENE BUCK, INDIVIDUALLY AND AS PRESIDENT OF THE AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS, ETC., ET AL.,

*vs.* *Complainants,*

GEORGE COUPER GIBBS, INDIVIDUALLY AND AS ATTORNEY GENERAL OF THE STATE OF FLORIDA, ET AL.,

*Defendants.*

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**(a) Statutory Provisions Sustaining the Jurisdiction.**

The complainants rely upon Judicial Code, Section 238 (U. S. C. Tit. 28, Sec. 345), and Judicial Code, Section 266 (U. S. C. Tit. 28, Sec. 380), respectively, as amended, as sustaining the jurisdiction of the Supreme Court of the United States to review the above entitled cause upon appeal, the decree appealed from having been made by a specially constituted three-judge court.

**(b) The Statute of the State of Florida, the Validity of Which is Involved.**

The statute of the State of Florida, the validity of which is involved in this appeal, is the Act of June 12, 1939, being Chapter 19653 of the Laws of Florida, 1939, General Laws, Volume 1, pages 1575-1583, inclusive. A copy of this stat-

ute is hereby annexed as Appendix "A" and will be referred to herein as the 1939 Act. Its provisions are summarized below.

**(c) The Decree Sought to be Reviewed Insofar as the Same Denied a Permanent Injunction as to a Part of the 1939 Act.**

The decree appealed from was made and entered August 5, 1940. The petition for appeal was presented November 2, 1940.

**(d) The Nature of the Case and of the Rulings of the Court.**

This action was brought by several owners of copyrighted musical compositions in their individual capacities as well as in their joint capacities as members of the American Society of Composers, Authors and Publishers (hereinafter referred to as the "Society"), to enjoin the enforcement of a statute of the State of Florida on the ground that such statute is in conflict with the copyright provisions of the Federal Constitution (Article 1, Section 8, Clause 8) of the Copyright Act of 1909, as amended, enacted thereunder (Act of March 4, 1909, 35 Stat. L., pp. 1075-1088, as amended; U. S. C. Tit. 17) and that it deprives complainants of their property without due process of law and denies equal protection of the laws. The original bill of complaint was filed on February 7, 1938. This bill sought to enjoin a law enacted by the State of Florida in 1937, hereinafter referred to as the "1937 Act" (Chapter 17807, Laws of Florida, 1937, General Laws, Volume 1, pp. 204-214; inclusive).

On April 17, 1939, this Court affirmed an order of the United States District Court for the Northern District of Florida, granting a temporary injunction restraining enforcement of the provisions of the 1937 Act (307 U. S. 66). Thereafter the 1939 Act which is involved in this appeal,

was passed (Appendix "A" hereto annexed). Subsequently, on October 19, 1939, complainants filed a further supplemental bill of complaint to enjoin enforcement of the 1939 Act on the ground that the 1939 Act was in conflict with the same provisions of the Federal Constitution and the Copyright Act of 1909, as amended, which have been set forth above in reference to the 1937 Act.

On October 30, 1939, a specially constituted District Court, consisting of Honorable Joseph C. Hutcheson, Jr., Circuit Judge, Honorable Augustine V. Long, District Judge, and Honorable Louie W. Strum, District Judge, granted a temporary injunction restraining enforcement of the 1939 Act *pendente lite*.

Thereafter, the issues were tried before a court consisting of Honorable Joseph C. Hutcheson, Jr., Circuit Judge, Honorable Augustine V. Long, District Judge, and Honorable William J. Barker, District Judge. After the conclusion of the trial, the decree appealed from was entered on August 5, 1940. The said decree invalidated the 1937 Act in its entirety and also invalidated Sections 4A and 4C of the 1939 Act. The decree, however, upheld the remaining sections of the 1939 Act, to wit: Sections 1, 2, 3, 4B, 4D, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17, on the ground that such sections had a valid purpose to compel disclosure to protect music users against imposition in the matter of copyrighted music and that the State of Florida had gone about effecting that purpose in a reasonable way in the sections of the 1939 Act other than Sections 4A and 4C.

Complainants appeal from so much of the decree of August 5, 1940 as sustains Sections 1, 2, 3, 4B, 4D, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of the 1939 Act.

Complainants contended upon the trial and contend now that the entire 1939 Act, including the sections other than 4A and 4C, as well as those two sections, deprives them of

their rights under the Federal Constitution, as set forth above, and also deprives them of certain rights under the Constitution of the State of Florida, which are not necessary to be stated as a basis for the jurisdiction of the Supreme Court of the United States.

Complainants contend that the 1939 Act imposes unreasonable burdens upon the exercise of rights granted to them under the Federal Copyright Act; that the statute interferes with exclusive rights granted to complainants under their copyrights, thus infringing Article 1, Section 8, Clause 8 of the Federal Constitution; that the main purpose of the statute was to prevent complainants from issuing blanket licenses for the use of their copyrighted works and to compel them to issue licenses solely in the manner and upon the terms prescribed in Sections 4A and 4C of said 1939 Act; and that the sections which have been upheld were subsidiary to that main purpose of the act as expressed in Sections 4A and 4C thereof; that no evil was shown to exist which might support the requirement of Section 2 of the 1939 Act which bars complainants from licensing the performing rights of their copyrighted works in the State of Florida unless the works are registered in that State, such registration giving the registration number of the work as registered in the Copyright Office of the United States. This would bar copyright owners from licensing their copyrighted works in Florida, unless such works have been registered in the Copyright Office. This would impose a burden upon the enjoyment of rights granted by the Federal Copyright Act, which rights Congress has vested in copyright owners without the necessity of registration as a condition precedent. *Washingtonian Pub. Co. v. Pearson*, 306 U. S. 30.

In invalidating Sections 4A and 4C, the court said:

"When it comes, however, to the 1939 Act we think the matter stands differently, for, having a valid purpose to compel disclosure to protect music users against

imposition in the matter of copyrighted music and, except as to Sections 4-A and 4-C, which are not germane to that purpose, having gone about effecting that purpose in a reasonable way, the Act as a whole is valid and may stand with those sections stricken from it. These sections constitute clear invasions of plaintiffs' rights under Federal laws for which no warrant or justification can be found in the exercise of the state's police power. They may not stand.

"As to 4-A, it seriously invades the rights of copyright owners to sell or license or refuse to sell or license as they please, and by its compulsion, opens to the public the unlimited right to use copyrighted material upon terms the owner must fix generally in advance, and under conditions which are not only unreasonable in fact but are in their nature beyond the power of the State to impose. A copyright owner has a right to sell or withhold from sale the matter of, and the rights under the copyright. He cannot be made to sell his product unless he wishes to. He can make one price to one user and an entirely different price to another. The effort of this section is to compel copyright owners, if they sell to one by a blanket license, to furnish schedules giving prices of the compositions so licensed, and to permit anyone desiring to do so, to perform any piece at the price so fixed. This is a taking of plaintiffs' property in its copyright without due process, and is beyond the power of the state.

"The defendants seem to recognize that this would be so if the condemned provision were not coupled in the statute with a provision permitting dealing in copyrighted music under blanket licenses. They seem to think that the permission of the statute for two or more owners to combine in a blanket license authorizes the state to impose unreasonable restrictions upon that joining.

"This will not at all do. It is not unlawful for one or more copyrighted owners, merely to pool their compositions for one royalty for them as pooled. Standard Oil Co. v. United States, 283 U. S. 263. Section

4-a does not concern itself with price fixing or with combinations for price fixing; it deals only with the Act of pooling copyrighted pieces to sell them for one royalty, that is, with the selling of two or more pieces under one license. There is no conceivable public policy against such action by two or more owners and therefore no valid exercise of police power involved in a statute putting limitations on such trading. So long as persons do not unlawfully combine to fix prices, and the section in question does not deal with such unlawful combinations, there is no offense in mere pooling. And the mere fact that the statute permits to be done what without the statute it was already lawful to do does not authorize it to impose unconstitutional restrictions upon that doing. 'But a state may not impose any condition which requires the relinquishment of a right guaranteed by the constitution'. *Sage v. Baldwin*, 55 F. (2d) at 969. The copyright laws guarantee to owners of musical compositions protection against the use thereof without their consent. The state of Florida may not therefore, as a condition to their being allowed to sell in Florida, a right they already have under the Federal constitution and laws, compel them to throw open to general public use the performing rights to their compositions at a price fixed in advance.

"Section 4-c is for the same reason invalid. It undertakes to impose unreasonable restrictions on copyright owners, restrictions having no reasonable relation to the public policy the Act is designed to further, that of disclosure for the protection of the public against fraud and imposition. In attempting to prevent individuals from contracting for the use of their copyrighted music upon any price bases they and their customers may select, the Act goes clearly beyond and is wholly outside the reasonable exercise of the police power. *People's Petroleum v. Sterling*, note 6 supra. The prohibition of the section against basing the price upon programs in which a particular piece of music is not performed is a completely arbitrary one and as

such, it could not stand if the subject of the prohibition were uses unprotected by copyright. For, the end and aim of the prohibition is to limit the right to sell or license copyrighted musical compositions to contracts based solely upon performances per piece of each particular piece of music and to prohibit contracts arrived at on any other basis, however reasonable and well adapted to the needs of and acceptable in the business generally, of selling and licensing performing rights in copyrighted musical compositions. If the statute dealt with contracts for the hiring of, work and labor, or personal services, of animals or things and by its prohibition prevented, wages and salaries from being fixed except on the basis of piece work, the hire of horse, car or boat from being fixed, except upon the basis of each particular use, or journey, we think it would be admitted that such a statute would be invalid as an invasion of the right and liberty of contract, and not at all a reasonable exercise of the police power of the state. Certainly the state is in no better, the owner of a copyright in no worse position as to rights protected by copyright, 'While the copyright Act may not enhance the right of proprietorship, it certainly does not lessen that right. As said by the Supreme Court in *Caliga v. Inter Ocean Newspaper Co.*, 215 U. S. 182' " The statute created a new property right, giving to the author, after publication, the exclusive right to multiply copies for a limited period.

"The right of an author in his intellectual production is similar to any other personal property right. It is assignable and it may be sold and transferred in its entirety, or a limited interest therein, less than the whole property, may be sold and assigned, and the various rights included in the entire ownership may be split up and assigned to different persons. Sales may be absolute or conditional and they may be with or without qualifications, limitations or restrictions. *Atlantic Monthly Co. v. Post Pub. Co.* (D. C. Mass.) 27 Fed. (2d) 556; *American Tobacco Co. v. Worckmeister*, 207 U. S. 284; *Buck v. Swanson*, note 6 *supra*."

Complainants urge that the same considerations apply to the other sections of the 1939 Act.

(e) Cases Believed to Sustain the Jurisdiction of the Supreme Court of the United States.

*Buck v. Gallagher*, 307 U. S. 95 (Probable jurisdiction noted October 10, 1938, 305 U. S. 569);

*Clark v. Poor*, 274 U. S. 554;

*Interstate Busses Corp. v. Blodgett*, 276 U. S. 245;

*Gully v. Interstate Natural Gas Co.*, 292 U. S. 16.

(f) Simultaneously with the filing of complainants' petition for appeal herein defendants will present a petition for appeal from so much of said decree of August 5, 1940, as invalidated the 1937 Act and Sections 4A and 4C of the 1939 Act. Complainants' cross appeal, together with defendants' appeal, will, therefore, bring before this Court for adjudication the validity of the entire 1937 Act and the entire 1939 Act.

FRANK J. WIDEMAN,  
LOUIS D. FROHLICH,  
HERMAN FINKELSTEIN,  
MANLEY P. CALDWELL,  
*Counsel for Complainants.*

**APPENDIX "A."****HOUSE BILL 1103 AND SENATE BILL 635  
EFFECTIVE MAY 1939****A Bill to be Entitled:**

**AN ACT Relating to Public Performing Rights in Copyrighted Musical Compositions and Dramatico-Musical Compositions; Defining the Same; Regulating Licensing of Same; Prescribing Filing Fees; Making Provisions for a Resident Agent in the State; Levying a Tax on the Gross Receipts from the Licensing of such Rights within the State of Florida; Providing for the Enforcement of this Act; the Promulgation of Rules and Regulations, Governing the Enforcement of this Act; Appropriating the Proceeds of the Tax and Fees Levied Herein and Repealing Certain Laws in Conflict Herewith.**

Be it Enacted by the Legislature of the State of Florida:

Section 1. As used in this Act, "person" means any individual, resident or non-resident, of this state, and every domestic or foreign or alien partnership, society, association or corporation; the words "performing rights" refer to "public performance for profit"; the word "user" means any person who directly or indirectly performs or causes to be performed musical compositions for profit; the term "blanket license" includes any device whereby public performance for profit is authorized of the combined copyrights of two or more owners; the term "blanket royalty or fee" includes any device whereby prices for performing rights are not based on the separate performance of individual copyrights.

Section 2. It shall be unlawful for any person to sell, license the use of, or in any manner whatsoever dispose of, in this state, the performing rights in or to any musical composition or dramatico-musical composition which has been copyrighted, and is the subject of a valid existing copyright, under the laws of the United States, or to collect any compensation on account of any such sale, license, or other disposition, unless such person:

(a) Shall first have filed with the Comptroller on forms prescribed by the Comptroller a list describing each such musical composition and dramatico-musical composition, the performing rights in which said person intends to sell, license or otherwise dispose of in this state, which description shall include the following: The name and title of the copyrighted composition, the date of the copyright, the number or other identifying symbol given thereto in the United States copyright office, the name of the author, the name of the publisher, the name of the present owner of the copyright to said composition, and the name of the present owner of the performing rights thereto. Additional lists of such copyrighted compositions may be filed by any such person from time to time, and shall be subject to all the provisions of this Act. A filing fee of two cents a composition shall be required by the Comptroller for filing any list under this Act.

(b) Shall simultaneously file an affidavit which shall describe the performance rights to be sold, licensed or otherwise disposed of and shall state that the compositions so listed are copyrighted under the laws of the United States, that the facts contained in the list to which said affidavit relates are true, that affiant has full authority to sell, license or otherwise dispose of the performing rights in such composition; and the affidavit shall set forth the name, age, occupation and residence of the affiant; and if an agent, the name, occupation and residence of his principal.

Section 3. The list provided for in the preceding section shall be made available by the Comptroller to all persons for examination, and taking of copies, in order that any user of such compositions in this state may be fully advised concerning the performing rights therein, and avoid being overreached by false claims of ownership of said performing rights, and also avoid committing innocent infringements of said works. The Comptroller may, if in his discretion he deems it necessary, in order to prevent such overreaching and to protect the citizens of this state from committing innocent violations of the copyright laws of the United States, cause a list of all such copyrighted material filed with him to be published once a year or oftener in

a form and medium which he shall deem suitable for said purpose. A duplicate of any list so filed by any such person shall at his request be certified by the Comptroller and shall by the Comptroller be given or delivered to such person, who shall exhibit the same on demand of anyone to whom such person seeks to sell, license or otherwise dispose of said performing rights.

Section 4-A. It shall be unlawful for two or more owners of the copyrights of musical compositions or dramatico-musical compositions to associate or combine together in any manner, directly or indirectly, for the purpose of issuing blanket licenses for the public performance for profit of their compositions upon a blanket royalty or fee covering more than one, or all, of such compositions owned or controlled by the members of such association unless each individual copyright owner included in such association, or such association in behalf of each individual copyright owner, also shall make available to each user of such compositions within the state, at the option of the user, the right to perform publicly for profit each such copyrighted musical composition owned by him or it at a price established for each separate performance of each such composition. To this end, there shall be filed with the Comptroller, either as a part of the list required by Section 2 hereof or as a separate document by such copyright owner, or by such association in behalf of such owner, a schedule or prices for the performing rights to each separate performance for profit of each such composition contained in such list, together with an affidavit of the copyright owner of such compositions that the price so stated has been determined by such copyright owner acting for himself and not either directly or indirectly in concert or by agreement with the owner or owners of any other copyrights. Such schedule of prices may contain reasonable classifications determined by use and function, or either, of the users of said compositions, with separate price for each classification, provided that there is equal treatment of all persons within each classification and that there is no unreasonable discrimination between classifications. Any copyright owner may at his election fix one price which shall be applicable

to each rendition of each of such compositions owned by him except to the extent that he elects to name specific compositions and to fix other prices for each rendition thereof; and said prices shall remain in force and effect until a new schedule of prices with respect to the performing rights to such compositions has been similarly filed in the office of the Comptroller, at any time, at the election of such owner changes in prices to become effective seven days from the date of filing thereof. The schedule of prices provided for herein shall be made available by the Comptroller to all persons for examination and the taking of copies, and may be published by him in the same manner as provided in Section 3 hereof.

**Section 4-B.** Any person issuing a blanket license for performance rights shall file with the Comptroller within thirty days from the date such blanket license is issued a true and complete copy of each such license issued or sold with respect to performance within this state, together with the affidavit of such person that such copy is a true and complete copy of the original and that it sets forth each and every agreement between the parties thereto with respect to such performing rights. The Comptroller shall charge for filing such contracts the same fee allowed clerks of the circuit court for similar services.

**Section 4-C.** It shall be unlawful for any person selling, licensing the use of or in any manner whatsoever disposing of or contracting to dispose of, in this state, the performing rights in or to any musical composition or dramatico-musical composition, to make any charge or to contract for or collect any compensation as a condition of using said performing rights based in whole or in part on any program not containing any such composition, and any such charge or contract for compensation shall be valid and enforceable only to the extent that it is based and computed upon a program in which such composition is rendered.

**Section 4-D.** It shall be unlawful for any person selling, licensing the use of or in any manner whatsoever disposing of or contracting to dispose of in this state public performing rights in or to any musical composition or dramatico-

musical composition to make any charge or to contract for or collect any compensation for the use or performance of any such composition that has not been listed with the Comptroller as provided in Section 2.

Section 5. At the time of filing the information required in Section 2 and 3, the owner of said performing rights shall execute and deliver to the Secretary of State on a form to be furnished by the Secretary of State, an authorization empowering the Secretary of State to accept service of process on such person in any action or proceeding, whether cognizable at law or in equity, arising under this Act, and designating the address of such person until the same shall be changed by a new form similarly filed; and service of process may thereafter be effected in this state on such person in any such action or proceeding by serving the Secretary of State with duplicate copies of such process; and immediately upon receipt thereof the Secretary of State shall mail one of the duplicate copies by registered mail to the address of such person as stated on authorization last filed by him. A filing fee of \$5.00 shall accompany this notice and the Secretary of State shall deposit same in the General Revenue Fund of the State of Florida.

Section 6. No person shall be entitled to commence or maintain any action or proceeding in any court with respect to such performing rights, or to collect any compensation on account of any sale, license or other disposition of such performing rights, in this state, except upon pleading and proving compliance with the provisions of this Act.

Copies, certified by the Comptroller as such, of each or all of the lists, license agreements, affidavits and other documents filed with the Comptroller pursuant to the requirements of this Act, shall be furnished by the Comptroller to any person upon request at the prices regularly charged by a clerk of the circuit court for such work. Such certified copies shall be admitted in evidence in any action or proceeding in any court to the same extent as the original thereof.

Section 7. From and after the effective date of this Act there is hereby levied, and there shall be collected, a tax, for

the act or privilege of selling, licensing, or otherwise disposing of performing rights in such compositions in this state, in an amount equal to three per cent of the gross receipts of all such sales, licenses or other dispositions of performing rights in this State, payable to the State Comptroller on or before the fifteenth day of March, 1940, with respect to all such gross receipts for the portion of the calendar year 1939 after the effective date of this Act, and annually thereafter, on or before the fifteenth day of March of each succeeding year, with respect to the gross receipts of the preceding calendar year. A return on a form prescribed by the Comptroller shall be made by all persons subject to this tax on or before the 15th day of March of every year which shall accompany a remittance of the tax due.

The Comptroller shall have authority through his authorized agents to examine and audit the books and records of any person he may deem subject to the tax or fees under this Act and may require such persons to appear before him at his office in the Capitol, in the City of Tallahassee, Florida, with such records and papers as may be necessary after giving thirty days notice to such person through said person's authorized agent, the Secretary of State.

The Comptroller shall also have authority through his authorized agents to examine and audit the books, records and accounts of any licensee or user making payments for use of public performing rights in the State of Florida to any person in order that the Comptroller may determine or check on gross receipts of those selling or licensing public performing rights in the State of Florida. Any person refusing the Comptroller or his duly authorized agents access to such books, records and accounts shall be subject to penalties prescribed in Section 9 hereof and may be required to appear in person with all books, papers and accounts required by the Comptroller at the Comptroller's office in the Capitol, Tallahassee, Florida, within ten days after receipt of notice which the Comptroller shall send by "registered mail, return receipt requested".

Should the Comptroller determine that any person liable for any tax or fees under this Act has made an incorrect return or has made no return at all, or has failed to pay any

tax or fees due, the Comptroller shall after determining the amount of such tax or fees due the State of Florida, from the best information at his command, certify such claim for delinquent taxes to said person through his duly designated agent, the Secretary of State, and unless payment of such delinquent tax is received within thirty days of delivery of said notice to the Secretary of State the Comptroller shall apply to a Circuit Judge in Leon County for the appointment of a receiver to take over and administer all assets of said delinquent taxpayer in the State of Florida.

The Circuit Judge upon the Comptroller's application properly authenticated, shall appoint some agent of the Comptroller as receiver, to serve without further compensation, but who shall be allowed all actual expenses. After posting such bond as the judge may determine proper, the said receiver shall take over and administer the affairs of said delinquent taxpayer within the State of Florida, collect accounts and do all things necessary to protect the interests of both the State of Florida and the said delinquent taxpayer and from such collections as he may make, he shall first pay the expenses of the receivership and any litigation incident thereto and the tax plus interest at the rate of 2% per month or fraction thereof from the last day of the year for which the tax was due.

After having satisfied the claims of the State and paid all costs of the receivership, the receiver shall make a return to the court, which shall order all assets returned to the taxpayer.

Section 8. It shall be unlawful for any person, without the consent of the owner thereof, if said owner shall have complied with the provisions of this Act, publicly to perform for profit, in this state, any such composition, or for any person knowingly to participate in the public performance for profit of such composition, or any part thereof.

Section 9. Any violation of this Act shall constitute a misdemeanor, to be punished as provided elsewhere in the laws of this state.

Section 10. Any person or persons who negotiates or collects or attempts to collect license fees or other exactions

or acts in any capacity whatsoever as a representative or agent for any person owning public performing rights of any copyrighted composition shall be subject to all the penalties in this Act provided for violations thereof.

Section 11. Any person in this State aggrieved by reason of any violation of this Act may sue thereof in the circuit court in which he resides or in the circuit in which the violation took place to recover any damages as the result of the violation of the terms of this Act or to require specific performance under the provisions of this Act and shall be entitled to recover his costs, including reasonable attorneys fees to be fixed by the court.

Section 12. The several Circuit Courts of this State shall have jurisdiction to prevent and restrain violations of this Act, and, on the complaint of any party aggrieved because of the violation of any of the terms of this Act anywhere within this state, it shall be the duty of the State's attorney in their respective circuits, under the direction of the Attorney-General, to institute proceedings, civil or criminal or both under the terms hereof, to enforce any of the rights herein conferred, and to impose any of the penalties herein provided. In civil actions such proceeding may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of have been duly notified of such petition, the Court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the Court may at any time make such temporary restraining order as shall be deemed equitable.

Section 13. In the event of the failure of the State's Attorney and Attorney-General to act promptly, as herein provided, when requested so to do by any aggrieved party, then such party may institute a civil proceeding in his own behalf, or upon behalf of Plaintiff and other similarly situated, as the State's Attorney and the Attorney-General could have instituted under the terms of this Act.

Section 14. After the costs and expenses of enforcing this act and the collection of the taxes and fees herein levied and

imposed are deducted, the amount of which costs and expenses are hereby appropriated to be paid from the proceeds of this Act, there is hereby appropriated the entire balance paid into the Comptroller under and by virtue of this act to the General Revenue Fund of the State of Florida.

Section 15. All laws or portions thereof whether general, special or local, which relate to the same subject matter as this Act and which are inconsistent with the provisions of this Act, are hereby superseded by the provisions of this Act to the extent that such inconsistency exists.

Nothing contained in this Act shall be so construed as to impair or affect the obligation of any contract or license which was lawfully entered into prior to the effective date of this Act.

Provided, however, nothing in this Act shall be construed to repeal, supersede or modify any of the statutes of the State of Florida pertaining to monopoly or restraint of trade, including but not limiting the generalities of the foregoing Sections 1, 2-C, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13 and 14 of Chapter 17807. Laws of Florida, 1937. Provided further, the revenue provisions of this Act shall take effect immediately it becomes a law and persons having contracts to sell public performing rights to users in the State of Florida shall file copies of such contracts with the Comptroller within thirty days of the date this act becomes a law and shall within ninety days of the time this Act becomes a law comply with other provisions of this Act that require filing of any date.

Section 16. Any section in this Act, or any part of any section that shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions hereof.

Section 17. This Act shall take effect immediately upon its becoming a law.